

**Town of Lincoln**  
**100 Old River Road, Lincoln RI**  
**Zoning Board of Review**

**November 6, 2008 Minutes**

**Present: Jina Karampetsos, Gabriella Halmi, Arthur Russo, David Gobeille, John Bart and Town Solicitor Anthony DeSisto**

**Minutes**

**Motion made Member Bart to accept Minutes from the August 2008 meeting. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.**

**Motion made Member Bart to accept Minutes from the October 2008 meeting. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.**

**Applications**

**John & Sandra Petrarca, 2 Michael Drive, Lincoln, RI – Application for Extension of Decision on Dimensional Variance application dated June 5, 2007.**

**AP 45, Lot 339 Zoned: RA 40**

**Due to a lack of quorum the application was continued to the December agenda.**

**Metro PCS, Mass.LLC. 285 Billerica Road, Chelmsford, MA/St. James Church Corp., 33 Division Street. Manville, RI – Application for Use Variance for a wireless communication facility on property located at 33 Division Street, Manville, RI  
AP 37, Lot 198 Zoned: RG 7**

**Metro PCS, Mass.LLC. 285 Billerica Road, Chelmsford, MA/St. James Church Corp., 33 Division Street. Manville, RI – Application for Dimensional Variance seeking height relief.  
AP 37, Lot 198 Zoned: RG 7**

**Russell Hervieux, Zoning Official addressed the Board stating there was a notice problem with the applications because of incorrect abutter addresses. Applicant was notified and corrected notices sent out. These types of applications need to be presented to the Area of Planning Concern (APC) before a decision can be rendered by the Zoning Board. APC has not reviewed the applications and their next planned meeting is in 2-3 weeks.**

**Applicant was under the impression applications had been reviewed by APC and asked that the applications be continued to the December agenda. Motion made by Member Halmi to continue the application to the December agenda. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.**

**Michael Trenteseau, 500 Great Road, Lincoln, RI – Dimensional Variance application for front and side yard setbacks to maintain existing home and create single family lot. Remanded upon appeal.**

**AP 22, Lot 11 Zoned: RL 9**

**Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI.**

**Applicant appealed the Board's denial of his application for a Dimensional Variance to the Superior Court for reversal of their decision rendered on October 2, 2007. Judge J. Procaccini of the Superior Court issued a Decision on September 9, 2008 (submitted as Exhibit #1) reversing the Board's denial and remanded the application back to the Zoning Board. Applicant seeks relief 17.95 feet for the west side setback; 24.2 feet for the rear south setback; and 6.4 feet for the front yard setback.**

**Motion made by Member Gobeille to grant the requested relief as stated in the findings of fact of 17.95 feet for the west side setback; 24.2 feet for the rear south setback; and 6.4 feet for the front yard setback. He further stated:**

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.**
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to**

**realize greater financial gain.**

- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- The relief requested is the least relief necessary.**
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

**Motion seconded by Member Bart. Motion carried with a 5-0 vote.**

**Tara Mechrefe, 2 Downs Drive, Lincoln, RI – Application for Dimensional Variance seeking rear yard setback for the construction of a single family residence on Riverfront Dr., Lincoln, RI.**

**AP 45, Lot 452 Zoned: RA 40**

**Represented by: John Shekarchi, Esquire, 132 Old River Road, Lincoln, RI**

**Member Russo informed the Board that he conducted the closing for the applicants and had no financial interest in the property.**

**Chair read into the record standards that need to be met for a Dimensional Variance application.**

**Property is a newly created lot and proposed home will be owner occupied. Lot was put on record June 2008 and submitted into the**

**record recorded plat map as Exhibit #1.**

**Witness**

**Edward Pimentel, AICP**

**Mr. Pimentel has appeared before this Board on past applications. Motion made by Member Halmi to accept Mr. Pimentel as an expert witness. Motion seconded by Member Bart. Motion carried with a 5-0 vote.**

**Mr. Pimentel submitted his resume as Exhibit #2 and his report as Exhibit #3. Subdivision of this property has gone through all town requirements and met with approval. Building envelope fits and the lot meets all area and width requirements. Subject lot measures approximately 43,780 square feet and is presently undeveloped. This is a newly recorded plan and it is an irregular shaped lot with five boundary lines. Granting of this application will not alter the area and a lot to the southeast may share similar problems. Applicant purchased the property five days after the subdivision was approved. The applicant is entitled to develop the subject property. The only deviation is a minor rear yard setback. The town is one of the abutters.**

**Chair read into the record Planning Board recommendation:**

**The Planning Board recommends Approval of this application for a Dimensional Variance from the rear yard setback. The Technical Review Committee reviewed the submitted site plans and visited the**

site. The Planning Board determined that the layout of the proposed single family house is limited due to the unique lot setback configuration. The Board finds that the applicant presents a realistic site layout that meets the intent of the zoning and is the least relief needed. The Planning Board feels that granting this dimensional variance will not impair the intent or purpose of the Zoning Ordinance, nor the Comprehensive Plan.

Motion made by Member Bart to approve the application seeking 37.7 feet rear yard setback on the westerly side. He further stated:

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to realize greater financial gain.
- The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.
- The relief requested is the least relief necessary.
- The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property

Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.

**Anthony Degnan, 1757 Old Louisquisset Pike, Lincoln, RI – Application for Special Use Permit to add an accessory family dwelling unit to the existing single family dwelling.**

**AP 43, Lot 47 Zoned: RS 20**

**Chair read into the record standards that need to be met for a Special Use Permit**

**Applicant wants to construct an addition for his in-laws with their own means of egress and ingress. Submitted into the record construction plans as Exhibit #1. He will be removing an existing sunroom and fence. Neighbor is 29 feet away. Existing porch will be attached to the addition and the exterior and roof of proposed addition will match existing house. In-laws will also be able to egress through the existing house. A new septic system will be installed and plans have been approved by DEM. No setbacks will be affected.**

**Chair read into the record Technical Review Committee recommendation:**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the Accessory Family Dwelling Unit. The applicant proposes to build a new accessory family dwelling unit onto the existing house. The entire house site is located within the lots established setback and no**

**variances are required. The Planning Board feels that the special use permit will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.**

**Motion made by Member Russo to approve the application with a condition that applicant file on a yearly basis an affidavit with the Town Clerk's office stating the addition is occupied by a family member and after five years needs to reappear before this Board. Motion seconded by Member Halmi. Motion carried with a 5-0 vote.**

**Chris & Maria Albanese, 10 Old Jenckes Hill Road, Lincoln, RI – Application for Special Use Permit to add an accessory family dwelling unit to the existing single family residence.**

**AP 25, Lot 170 Zoned: RA 40**

**Chair read into the record standards that need to be met for a Special Use Permit**

**Applicant submitted into the record construction plans as Exhibit #1. His parents would be living in the proposed addition which will have a separate entrance. They will share laundry facilities to the left side of the house where the proposed addition will be located. Egress from the property will be at the front of the house. Exterior and roof of the addition will match the existing house. Lighting will be installed at the new doorway to the addition. No variances are required.**



**Chair read into the record Technical Review Committee recommendation.**

**Members of the Technical Review Committee visited the site and reviewed the submitted plans and application. The Planning Board recommends Approval of the Special Use Permit for the Accessory Family Dwelling Unit. The applicant proposes to build a new accessory family dwelling unit onto the existing house. The entire house site is located within the lots established setback and no variances are required. The Planning Board feels that the special use permit will not alter the general character of the surrounding area and will not impair the intent and purpose of the zoning ordinance and the Comprehensive Plan.**

**Motion made by Member Bart to approve the application with a condition that application file on a yearly basis an affidavit with the Town Clerk's office stating the addition is occupied by a family member and after five years needs to reappear before this Board. Motion seconded by Member Gobeille. Motion carried with a 5-0 vote.**

**Great Road Realty, LLC, 571 Middle Road, Colchester, VT – Application for Dimensional Variance seeking rear yard setback to maintain existing single family home creating 4 lots in total for property located on Great Road, Lincoln, RI.**

**AP 23, Lot 51 Zoned: RS 20**

**Represented by: John Shekarchi, Esquire, 132 Old River Road,  
Lincoln, RI**

**Chair read into the record standards that need to be met for a Special  
Use Permit**

**Property consists of 4.9 acres of land with a pre-existing dwelling  
with water and sewer services. Applicant has appeared before the  
Planning Board and received master plan approval conditional upon  
Zoning Board approval.**

**Witness**

**Edward Pimentel, AICP**

**Mr. Pimentel has appeared before this Board on past applications.  
Motion made by Member Bart to accept Mr. Pimentel as an expert  
witness. Motion seconded by Member Gobeille. Motion carried with  
a 5-0 vote.**

**Mr. Pimentel submitted his resume and report as Exhibit #1. He is  
familiar with the proposed plan. Requested relief is classic and  
predates zoning. Boundary lines meet all dimensional criteria. Lot is  
rectangular in shape and uniqueness of the property results in  
hardship. Existing house was built in 1949 and homes in the area sit  
on an average of 1.62 acres. What applicant is proposing will result  
in 1.25 acre lots. Property is split zoned in RS 20 and RS 40. Owner  
will not alter the area. Submitted into the record Superior Court**

**decision on the Michael Trenteseau C.A. No. PC 07-6733 appeal as Exhibit #2.**

### **Witness**

**Ronald Chofay, Jr. Mr. Chofay is a licensed real estate broker in Rhode Island. Submitted into the record his resume as Exhibit #3. Motion made by Member Halmi to accept Mr. Chofay as an expert witness. Motion seconded by Member Bart. Motion carried with a 5-0 vote.**

**He is familiar with the site and area and does not feel proposed will have a negative affect on the area. New homes tend to elevate value of existing homes. Hardship on this application is due to the unique character of the existing structure. Granting will not alter the general character of the area with existing homes ranging from \$350,000 to \$400,000.**

**Attorney Shekarchi stated the existing garage on lot 2 will be demolished and two existing sheds are below the 500 square foot requirements. Applicant is only requesting rear lot relief and no lot width relief is necessary. Surrounding houses have been there since the 1980s**

**Chair read into the record Technical Review Committee recommendation:**

**Members of the Technical Review Committee visited the site and**

reviewed the submitted plans and application. The proposed dimensional variance for the rear yard setback is to clear up the pre-existing nonconformance of the existing house. This record lot and house was platted and built before present day zoning regulations. The Planning Board recommends Approval of this application. The Planning Board finds that the relief requested will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.

**Opposed:**

**Bob Shannahan, 1013 Great Road, Lincoln, RI**

Hardship on this lot was created by the father-in-law. No one in the family has lived at the site for over four years. Feels applicant is only doing this for financial gain. He has lived on Great Road since 1973 and his house is located a couple hundred feet to the property line.

**Motion made by Member Halmi to grant the application seeking 4.59 feet relief from the rear lot line on the east side of the property. She further stated:**

- The hardship from which the applicant seeks relief is due to the unique characteristics of the subject land or structure and not due to the general characteristics of the surrounding area and is not due to a physical or economic disability of the applicant.
- The hardship is not the result of any prior action of the applicant and does not result primarily from the desire of the applicant to

**realize greater financial gain.**

- **The granting of this variance will not alter the general character of the surrounding area or impair the intent or purpose of the Lincoln Zoning Ordinance or the Lincoln Comprehensive Plan.**
- **The relief requested is the least relief necessary.**
- **The hardship amounts to more than a mere inconvenience, meaning there is no other reasonable alternative to enjoy a legally permitted beneficial use of the property**

**Motion seconded by Member Bart. Motion carried with a 5-0 vote.**

**Motion made by Member Halmi to adjourn the meeting. Motion seconded by Member Bart. Motion carried with a 5-0 vote.**

**Ghislaine D. Therien**

**Zoning Board Recording Secretary**